

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

CHARLES R. EAGLE BOY,

Petitioner,

V.

STATE OF NEBRASKA,

Respondent.

CASE NO. 4:13CV3120

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's Motion for Leave to Proceed in Forma Pauperis ("IFP") (Filing No. [7](#)) and Motion for Information (Filing No. [6](#)). Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. [28 U.S.C. § 1914\(a\)](#). The court has reviewed the application to proceed IFP. Petitioner's trust account information shows that Petitioner's account contained an average monthly balance of \$100 or more for the six-month period immediately preceding the filing of the petition. (Filing No. [8](#).) Thus, the court concludes that Petitioner must be required to pay the \$5.00 filing fee because Petitioner has the financial ability to do so. See [28 U.S.C. § 1915\(a\)](#). No further review of this case will take place until the fee is paid.

In Petitioner's Motion for Information, he argues that he directed his institution to pay the filing fee in this matter out of the funds available in his inmate trust account, and that his inmate trust account statement reflects that a \$5.00 payment was made to "district court" on June 14, 2013. (Filing No. [6](#) at CM/ECF p. 1.) The court has carefully reviewed the administrative and financial records of this court, and it has determined that the court did not receive Petitioner's \$5.00 payment. If Petitioner has questions about the \$5.00 payment he made to a "district court" on June 14, 2013, a payment that is reflected on his

inmate trust account statement (see Filing No. [8](#) at CM/ECF p. 15), he should direct them to the appropriate officials at his institution.

IT IS THEREFORE ORDERED that:

1. Petitioner's application to proceed IFP (Filing No. [7](#)) is denied;
2. Petitioner's Motion for Information (Filing No. [6](#)) is granted to the extent that it is consistent with this Memorandum and Order;
3. Petitioner is granted until **September 30, 2013**, to pay the \$5.00 filing fee. Petitioner is warned that if the fee is not paid as required, the court may dismiss this case without further notice;
4. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: September 30, 2013: deadline for Petitioner to pay \$5.00 filing fee; and
5. No further review of this case will take place until the filing fee is paid.

DATED this 28th day of August, 2013.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

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